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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)

1530.0060004/EJH/PAC

The Application of: **HORTON et al.**Application No.: **09/557,907**Filed: **April 21, 2000**For: **Methods For Treating Cancer Using Cytokine-Expressing Polynucleotides**

The owner*, **Vical Incorporated**, of **100** percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. **6,875,748** as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

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is held unenforceable;

is found invalid by a court of competent jurisdiction;

is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;

has all claims canceled by a reexamination certificate;

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2. The undersigned is an attorney or agent of record. Reg. No. 36,688

Signature

Date

Eric K. Steffe

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(202) 371-2600

Telephone Number

Terminal disclaimer fee under 37 CFR 1.20(d) included.

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